

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.9 of 2019

Arising Out of PS. Case No.-159 Year-2016 Thana- UJIYARPUR District- Samastipur

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Ranjeet Mahto son of Baleshwar Singh @ RamBaleshwar Singh, Resident of
Village - Launbia Raghukanthbihri Tool Police Station - Samastipur Muffasil ,
District - Samastipur.

... .. Petitioner/s

Versus

The State Of Bihar

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr .Bijay Bhushan Prasad
For the Respondent/s : Mr. Ataur Rahman

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CORAM: HONOURABLE MR. JUSTICE S. KUMAR

ORAL JUDGMENT

Date : 07-03-2019

Heard learned counsel for the parties.

This criminal revision petition has been filed for setting
aside the judgment and order dated 07.09.2018 passed by 3rd
Additional Sessions Judge, Samastipur, in Criminal Appeal No.
25 of 2018, by which he has dismissed the appeal and affirmed
the judgment of conviction and order of sentence dated
09.03.2018 passed by learned Sub Divisional Judicial
Magistrate, Dalsingsarai, Samastipur, in T.R. No. 1103 of 2008,
G.R. No. 679 of 2016 (Ujiyarpur P.S. Case No. 159 of 2016)
convicting petitioner under Section 25(1-b)a and 26 of the Arms
Act and sentencing him to undergo three years rigorous



imprisonment with fine of Rs. 2000/- and in default to undergo further rigorous imprisonment for one month and under Section 26 of the Arms Act to undergo rigorous imprisonment of three years and fine of Rs. 5000/- and in default to undergo rigorous imprisonment for two months. Both the sentences to run concurrently.

Prosecution story is based upon self-statement recorded by police Sub-Inspector- cum- SHO, Ujiyarpur in which it was stated that on 1.10.2016 after 6 p.m., he along with other A.S.I. and police personnel were on patrolling duty when at 7.30 p.m., they saw a tall man coming towards them and as he saw the police vehicle he started fleeing but was chased and apprehended and on being questioned gave evasive reply however, when he was strictly asked he disclosed his name as Ranjeet Mahto (petitioner) and in presence of two independent witnesses he was searched and from his possession, one loaded country made pistol and four cartridges were recovered.

After investigation, charge-sheet was submitted and cognizance of the offence was taken and, thereafter, charges were framed under Section 25(1-b)a and 26 of the Arms Act to which he pleaded not guilty and claimed to be tried.

Altogether, eight witnesses were examined on behalf of



prosecution to support the charges. P.W.1 is Madhurendra Kishore. P.W.2 is Shyam Bihari Choudhary. P.W.3 is Mithilesh Kumar Singh. P.W. 4 is Surendra Prasad Ram. P.W. 5 is Shambu Kumar. P.W. 6 is Raj Kumar Choudhary. P.W. 7 is Rajendra Sahni, P.W. 8 is Dharmendra Sahni. However, no one was examined on behalf of defence.

P.W. 1 is Madhurendra Kishore, who is also the informant and has stated in his examination-in-chief that on 1.10.2016 he along with A.S.I. Shyam Bihari Choudhary, Chowkidar, Raj Kumar Choudhary, Armed Home Guard force were on patrolling duty and when they reached Maheshpatti and saw Ranjit Mahto (petitioner) wandering there and on seeing police vehicle, he tried to escape but was apprehended and in presence of independent witnesses, he was searched and from his possession, one country made pistol and four live cartridges were recovered and seizure list was prepared on which he put his signature which has been marked as Ext. 1 and he recorded his self-statement in his writing and signature which has been marked as Ext. 2. He identified the pistol and five cartridges and same were marked as material Ext. 1 for pistol and Ext. 2 /1 to 2/5 for cartridges and F.I.R. was marked as Ext. 2/1. In his cross-examination, he has stated that arrest memo and seizure



list were prepared at the place of occurrence and search was made as per established procedure. Investigating officer was not a member of raiding party. P.W.2 Shyam Bihari Choudhary, A.S.I. was also a member of raiding party and in his deposition has supported the case of prosecution. P.W. 5 Shambu Kumar constable and P.W. 6 Raj Kumar Choudhary, Chowkidar were also members of raiding party and in their deposition have supported the case of prosecution.

P.W.4, Surendera Prasad, A.S.I., Ujiyarpur was the investigating officer who has proved the signature of SHO on F.I.R. which has been marked as Ext. 4. He had investigated the case and recorded the statement of witnesses and received the seized articles in sealed condition. He has further stated that the necessary sanction order for prosecution was granted by District Magistrate which has been marked as Ext. 5. P.W. 7 and P.W. 8 who are the witnesses of seizure list have turned hostile. However, they have accepted their signature on the seizure list.

The trial court after considering and appreciating the evidences on record has found that prosecution has been able to establish charges under Section 25(1-b)a and 26 of the Arms Act beyond reasonable doubt and hold him guilty and convicted him and sentenced to undergo rigorous imprisonment of 3 years



under Section 25(1-b)a of Arms Act with fine of Rupees two thousand and in default, to undergo further rigorous imprisonment of one month and further sentenced to undergo rigorous imprisonment of 3 years under Section 26 of Arms Act and fine of Rs.5000/- and in default to further undergo rigorous imprisonment of two months. Both the sentences shall run concurrently.

Aggrieved by the judgment of conviction and order of sentence, petitioner preferred Cr. Appeal being Cr. Appeal No.25 of 2018 and after hearing the parties and upon reconsideration and re-appreciation of evidences on record, the appellate court did not find any infirmity or error in the judgment of conviction and order of sentence passed by trial court and dismissed the criminal appeal by order dated 7.9.2018 passed by 3rd Additional Sessions Judge, Samastipur and upheld the judgment of conviction and order of sentence passed by Trial Court.

After hearing the parties and going through the judgment and order passed by Trial Court as well as Appellate Court, this Court does not find any error, illegality or infirmity in the orders passed by both the courts and as such does not call any interference by this Court in its revisional jurisdiction.



However, it has been submitted that petitioner has already remained in custody for more than two years and three months and since it is his first conviction as such, the order of sentence is modified to the period already undergone.

In the result, the criminal revision petition is dismissed subject to modification in the order of sentence as period already undergone. The petitioner may be released from the prison forthwith if not wanted in any other case.

(S. Kumar, J)

ranjan/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	18.03.2019
Transmission Date	18.03.2019

